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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,648	11/20/2001	Terutsugu Gotanda	033192-007	8855

7590 01/23/2004

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EXAMINER

PATEL, KIRAN B

ART UNIT

PAPER NUMBER

3612

DATE MAILED: 01/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/988,648	GOTANDA ET AL.
	Examiner	Art Unit
	Kiran B. Patel	3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 03 December 2003.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 2-10,12-14 and 16-23 is/are pending in the application.  
4a) Of the above claim(s) 7 and 8 is/are withdrawn from consideration

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 2-6,9,10,12-14,16-23 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a)  The translation of the foreign language provisional application has been received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)      4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.      6)  Other: \_\_\_\_\_

**DETAILED ACTION**  
Final Rejection

***Election/Restriction***

1. Applicant's election with traverse of Group II, Species A, Figs. 1-4, claims 2-6 in Paper No. 7 is acknowledged. The traversal is on the ground(s) that the search and examination of the entire application could be made without serious burden. This is not found persuasive because additional search and/or consideration will be required for the other species.

As requested, only claims 7-8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species. Claims 17, 20, and 22 are considered along with other claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 2-6, 9, 10, 12-14, 16-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Motozawa et al. (6,203,098) in view of Myers (3,831,997).

Regarding Claims 2-6, 9, 10, 12-14, 16-23, Motozawa et al. (6,203,098) discloses in Fig. 1-12 the invention as claimed to include a lateral bumper reinforcer, 10; a pair of front-rear hollow crash boxes 8 with constant rectangular cross-section, sides, ridgelines and two ends; a vehicle body 7; and plurality of partitions Fig 3.

However, Motozawa et al. (6,203,098) does not disclose an initial buckling portion extends around the entire circumference and includes projections and recess which are alternatively arranged in the circumferential direction of the crash box.

Myers (3,831,997) discloses in Fig 1-2 an initial buckling portion 21 extends around the entire circumference and includes projections and recess which are alternatively arranged in the circumferential direction of the crash box.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention, as disclosed by Motozawa et al. (6,203,098), to include an initial buckling portion extends around the entire circumference and includes projections and recess which are

alternatively arranged in the circumferential direction of the crash box, as disclosed by Myers (3,831,997), to cost effectively manufacture the crash box to absorb the desire level of shock.

*Response to Arguments*

2. Applicant's arguments with respect to elected claim have been considered but are moot in view of the new ground(s) of rejection.

Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985)

*Conclusion*

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Kiran B. Patel whose telephone number is 703-305-0254. The examiner can normally be reached on M-F from 8:00 to 5:00. The

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fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.



Kiran B. Patel, P.E.  
Primary Examiner  
Art Unit 3612  
January 21, 2004